



February 3, 1999

SENATE BILL No. 57

DIGEST OF SB 57 (Updated January 27, 1999 11:46 am- DI kcc)

Citations Affected: IC 3-8; IC 33-11.6.

Synopsis: Small claims courts. Changes the divisions of the Marion county small claims court to township small claims courts. Increases the jurisdiction of the courts from \$6000 to \$10,000.

Effective: January 1, 2001.

Clark

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.

February 2, 1999, amended; reassigned to Committee on Judiciary.



SB 57—LS 6154/DI 13+

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February 3, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 57

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2001]: Sec. 30. A candidate for the office
3 of judge of a small claims court must:

- 4 (1) be a United States citizen upon taking office;
- 5 (2) have resided in the ~~county~~ **township from which the**
6 **candidate is elected** for at least one (1) year upon taking office;
- 7 (3) be of high moral character and reputation; and
- 8 (4) either:
 - 9 (A) be admitted to the practice of law in Indiana upon filing a
10 declaration of candidacy or petition of nomination or upon the
11 filing of a certificate of candidate selection under IC 3-13-1-15
12 or IC 3-13-2-8; or
 - 13 (B) have at least one (1) year of experience as a justice of the
14 peace before January 1, 1976, and have served as a justice of
15 the peace on December 31, 1975.

16 SECTION 2. IC 33-11.6-1-3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. ~~Creation~~. There

SB 57—LS 6154/DI 13+



1 is are hereby created and established a **township** small claims ~~court~~
 2 **courts** in each county containing a consolidated city of the first class.
 3 The name of ~~the each~~ court shall be the " _____ **County**
 4 **Township of Marion County** Small Claims Court" (insert the name
 5 of the ~~county township~~ in the blank). ~~Such court shall become~~
 6 ~~operational on January 1, 1976.~~

7 SECTION 3. IC 33-11.6-1-7 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. ~~Circuit Court~~
 9 ~~Judge.~~ The judge of the circuit court shall extend aid and assistance to
 10 the judges in the conduct of ~~their divisions of the township~~ small
 11 claims ~~court.~~ **courts.**

12 SECTION 4. IC 33-11.6-3-5 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. ~~Hours of~~
 14 ~~Service.~~ The circuit court judge may establish a regular hourly schedule
 15 for the performance of duties by full-time or part-time ~~divisions of~~
 16 **township** small claims courts, and each small claims court judge shall
 17 maintain that schedule. If the circuit court judge does not establish a
 18 regular hourly schedule, each small claims court judge shall perform
 19 ~~his the judge's~~ duties at regular, reasonable hours. Whether or not a
 20 regular hourly schedule has been established by the circuit court judge,
 21 a small claims court judge shall hold sessions in addition to ~~his the~~
 22 **judge's** regular schedule whenever the business of ~~his division the~~
 23 **judge's court** requires such sessions.

24 SECTION 5. IC 33-11.6-3-14 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. ~~Seal.~~ Each
 26 judge shall procure a seal that will stamp upon paper a distinct
 27 impression of words and letters. The seal shall contain the words
 28 _____ **County "Township of Marion County** Small Claims
 29 **Court,"** _____ ~~Division~~ (insert the name of the ~~county and the~~
 30 **name of the** township in the ~~appropriate blanks~~): **blank.** Deeds,
 31 mortgages, powers of attorney, state warrants and all other instruments
 32 of writing pertaining to his official duty, duly attested by the seal and
 33 signature of the judge, shall be presumptive evidence of the official
 34 character of said court or judge in all courts in the state without further
 35 authentication.

36 SECTION 6. IC 33-11.6-4-1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~County-wide.~~
 38 **The (a) Except for any claim between landlord and tenant, any case**
 39 **within the** jurisdiction of ~~the~~ any small claims court ~~and each of its~~
 40 ~~divisions, shall extend throughout the county.~~ **may be venued,**
 41 **commenced, and decided in any township small claims court within**
 42 **the county. However, upon a motion for change of venue filed by**



the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court in which the action was filed sits.

(b) The determination to be made under subsection (a) shall be made in the following order:

(1) In an action upon a debt or account, the township where any defendant has consented to venue in a writing signed by the defendant.

(2) The township where a transaction or occurrence giving rise to any part of the claim took place.

(3) The township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is no such greater percentage, the place where any individual defendant so named resides, owns real estate or rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) The township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant shall be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the township small claims court the court shall rule whether required venue lies in the township of filing.

SECTION 7. IC 33-11.6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. The court shall have original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed ~~six ten~~ thousand dollars (~~\$6,000~~), (**\$10,000**), not including interest or attorney fees.

SECTION 8. IC 33-11.6-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~Transfer of Cases between Divisions~~. The circuit court judge may transfer cases from one (1) ~~division~~ **township small claims court** to another as the needs of the small claims court may require.

SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2001]: IC 33-11.6-1-5; IC 33-11.6-2-1.



SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 57 and that Senator Clark be substituted therefor.

GARTON

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 57, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 57 as introduced.)

GARTON, Chairperson

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